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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,914	06/01/2001	Ferdinand Schermel		4663

7590

08/08/2003

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit:

Response to Request for Supervisory Review

1. Applicant argues the restriction/election requirement. These arguments have previously been considered and the restriction/election requirement has been vacated. The last Office action addressed all of the pending claims. **There is no restriction/election requirement currently in this application and further arguments to such none existing requirement will not be further addressed.**

2. Applicant argues the provisional application provides support for the new matter. The priority to the provisional application has been granted in this application. However, the determination of new matter is based on the specification, as filed, in the non-provisional application. In the instant case, the provisional application cannot be relied upon for support of the new matter because applicant failed to incorporate the provisional application by reference when the non-provisional application was filed. Applicant cannot incorporate the provisional application by reference after the non-provisional application is filed.

3. Applicant argues the original claims 2 and 11 provide support for the new matter. This is not found persuasive. Original claim 2 (and similarly claim 11) recited “a plurality of attachable containers stacked and secured on top of said attachable container.” However, the application has been amended to reflect that a first attachable container rests on top of the wheeled container

Art Unit:

and the second attachable container rests on top of the first attachable container. Original claims 2 and 11 did not require the (first) attachable container to be secured or rest on top of said wheeled container. Original claim 2 recited the location of the plurality (or second) attached container relative to the first attached container but did not recite the location of the (first) attached container relative the wheeled container. The application as amended is not supported by originally filed claims 2 and 11.

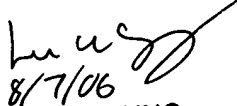
4. Applicant argues the original claim 1 provides support for the new matter. This is not found persuasive. Original claim 1 recited "at least one attachable container." However, original claim 1 did not require the at least one attachable container to be secured or rest on top of said wheeled container. Furthermore, claim language is given the broadest reasonable interpretation. The broadest reasonable interpretation of "at least one" is one and not two or more. The application as amended is not supported by originally filed claim 1.

5. The proposed changes to figure 1 is still deemed to be new matter. Contrary to applicants assertions, the specification as originally filed does not provide support for two containers being stacked on top of a wheeled container (as addressed above). Furthermore, the proposed figure shows many additional details which were not supported by the ^{specification} ~~a-specific~~ as originally filed. For example, the proposed figure show a specific arrangement of the containers, specific connections between the containers, specific sizes of the containers, a specific number of containers,

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etc..... All of the additional details which are shown in proposed figure 1 are new matter and any one of those additional details are enough to deny entry of the proposed figure.

6. Any inquiry concerning this communication should be directed to Lee Young,
Supervisory Patent Examiner, Art Unit 3727.


8/7/06
LEE YOUNG
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